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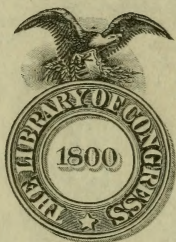
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915

New Jersey Laws, Statutes etc.

Laws relating to Forestry
1915.



Class SD 566

Book N 5 A 5

1915

Laws of New Jersey

relating to

Forestry



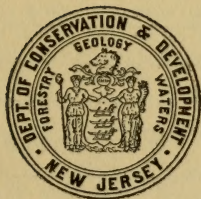
1915



Laws of New Jersey

relating to

Forestry



1915

New Jersey, Laws, Statutes, etc.

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1915

Under the law approved April 8, 1915 (Chapter 241, P. L. 1915), the Department of Conservation and Development succeeds to all the powers and duties of the Forest Park Reservation Commission as herein defined.

**DEPARTMENT OF CONSERVATION AND
DEVELOPMENT.**

STATE HOUSE, TRENTON, N. J.

EDWARD S. SAVAGE, *President*,.....Rahway
WALTER J. BUZBY,.....Atlantic City
NELSON B. GASKILL,.....Trenton
SIMON P. NORTHRUP,.....Newark
CHARLES LATHROP PACK,.....Lakewood
STEPHEN PFEIL,.....Camden
GEORGE A. STEELE,.....Eatontown
HENRY CROFUT WHITE,.....North Plainfield

ALFRED GASKILL, *Director; and Chief, Division of Forestry and Parks.*

HENRY B. KÜMMEL, *Chief, Division of Geology.*

CHARLES P. WILBER, *State Firewarden.*

(2)

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OCT 28 1915

2200, P. 1, N. 1

Creating the Forest Park Reservation Commission and Defining Its Powers.

An Act for the establishment of forest park reservations by and in the State of New Jersey, and for the appointment of a state board of forest park reservation commissioners, and defining its powers and duties. Approved March 22, 1905 (Ch. 47). (*2 Comp. Stat.*, pp. 2605-2609.)

Sec. 1. There is hereby established a state board of forest park reservation commissioners, to consist of five members, which said board shall be a body politic and corporate, with perpetual succession under the name of "state board of forest park reservation commissioners," with power to sue and be sued, with power to adopt and use a corporate seal, and the right, power and authority to acquire, hold and use all such property, real and personal, as may be proper or necessary, and with all other powers proper or necessary to carry out and effectuate the purpose for which said board is created; of this board the governor and the state geologist shall be ex-officio members, and the other members shall be citizens of the state appointed by the governor, by and with the advice and consent of the senate; the terms of office of the said commissioners shall be three years, the term of the governor and of the state geologist to run concurrently with their term of governor and state geologist respectively; the term of the three appointed members to begin from the date of their first appointment, which said appointments shall be made promptly upon the taking effect of this act; of those so first appointed, one shall be for a term of one

Forest park reservation commissioners.

Powers and duties.

Ex-officio members.

Terms.

year, one for a term of two years and one for a term of three years; and thereafter all such appointments

shall be for the terms of three years as
Vacancy. aforesaid; any vacancy that may occur by death, resignation or otherwise shall be filled by the governor but for the unexpired term only. (P. L. 1905, p. 77.)

Sec. 2. (*As amended April 1, 1913, Ch. 187.*) Said board shall have power to acquire a fee simple estate in any lands to be taken for the purposes of forest park reservations, as in this act hereafter directed, or any easement or profit a prendre that said board in its discretion may deem best; the said acquisition may be accomplished either by deed, gift or devise, or, if necessary, by condemnation proceedings, to be instituted by and in the name of said board, under and pursuant to an act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use (Revision of 1900)," being chapter fifty-three, laws of one thousand nine hundred, with any amendments thereof or supplements thereto; said board shall have power to hold said lands and any estate, easement or profit a prendre therein for the benefit of the people of the State of New Jersey. Said board shall

have power to lease, sell, or exchange
Lease, sell or exchange. for other land, any portion of the lands acquired under the provisions of this act, with any buildings which may be thereon, when, in the judgment of the said board, such lease, sale, or exchange is deemed to be for the best interests of the State in the furtherance of the purposes of the said act.

Provided, however, that no sale or exchange shall be made without the approval of the Governor. Such leases, sales or exchanges shall be made in the name of the State of New Jersey by the State Board of Forest Park Reservation Commissioners, under the seal of the said commission, signed by the president and secretary thereof. All moneys derived from such

sales, leases, or exchanges, shall be paid
Moneys held in special fund. into the State Treasury and there held as a special fund, subject to expenditure by the said board

for any of the purposes expressed in this act. (P. L. 1913, p. 339.)

Sec. 3. (*As amended April 6, 1915, Ch. 165.*) The care, management and preservation of the forest reserves, and the forests thereon, as well as future growth thereon, and all moneys appropriated in that behalf, or collected therefrom in any way, and all personal property acquired to carry out the purposes of this act, are hereby confided to and vested in said board, as the same may be herein or in subsequent acts defined and required. The board shall observe, keep in view, and, so far as it can, put in operation the best methods to reforest cut-over and denuded lands, to forest waste and other lands, to prevent injury of forests by fire; shall provide for the administering and care of forests on forestry principles, for the encouragement of private owners in preserving and growing timber for commercial and manufacturing purposes, and for the general conservation of forest tracts around the headwaters and on the watersheds of all the water courses of the State. Said board shall make reports of its work, conclusion and recommendations to each session of the Legislature, and from time to time publish, in a popular manner, and print for popular distribution, in bulletin or other form, such of its conclusions and recommendations as may be of immediate public interest. If any such report or publication shall be in especial demand and the supply shall become limited the board may restrict its distribution or fix a reasonable price to be paid for it. Whenever it shall appear that the welfare of the State will be advanced by cutting or selling or disposing of any of the timber on State forest lands, or by using any portion of such lands for agriculture, or for any other purpose than the maintenance of forest, the board is hereby empowered to cut and sell such timber, or to provide for the use and development of such land in the way that in its judgment is most proper, on terms most advantageous to the State; and said board is hereby empowered to make

**Preservation
and manage-
ment.**

**General
Powers.**

Reports.

**Use of State
forest lands.**

Contracts and agreements. or execute contracts in the name of the State, and to make agreements with other State departments, board or bodies, for the carrying out of the purposes of this act; *provided, however,* that no such contract or agreement shall be made without the approval of the Governor. The board shall have power to employ such persons as are necessary for carrying out the provisions of this act and to fix their compensation. (P. L. 1915, p. 324.)

Misdemeanor to cause fires or to cut timber on reserves. Sec. 4. Any person or persons who shall set, or cause to be set, any fire upon any of the forestry reservations of this state, except in accordance with such rules or regulations as may be prescribed by said board, or who shall set or cause to start any forest fire upon property near or adjoining any state forestry reservation whereby the timber of said reservation is damaged, or who shall cut or remove any timber whatever from any forestry reservation, except in accordance with the rules and regulations of the board, shall be guilty of a misdemeanor, and may be punished accordingly; all fines and penalties when collected shall be paid to the executive officer of said board, who is hereby directed to pay the same over to the state treasurer. (P. L. 1905, p. 79.)

Sec. 5. (*As amended March 14, 1911, Ch. 20.*) The said board may appoint a warden, or wardens, for each forest reserve, and any such warden shall have power, within any forest reserve, to arrest without warrant any person or persons taken by him in the act of violating any provision of this act, or any rule of the forest commission made under the authority of this act. Such wardens shall also have power to require any male person who may live or be within any township adjacent to a forest reserve, and who is between eighteen years and fifty years of age and physically able, to help him extinguish a fire on a forest reserve. He may also require the use of horses or other property needed, and any person so summoned who refuses or neglects to assist a warden, or

Powers of Wardens.

to allow the use of the property required, shall be liable to a penalty of ten dollars. Anyone who serves as a fire fighter on a forest reserve shall be entitled to the same pay as is provided by **Pay for fighting fire.** law for those who assist township and district firewardens. Bills for such service shall be rendered to the forest commission by the reserve warden in charge of the fire and shall be paid by the State Treasurer as are other bills of said board. (P. L. 1911, p. 31.)

Sec. 6. The title of all lands acquired by the State for forestry reservations shall be taken in the name of the State, and all such forestry **Title to rest in state; Taxes.** reservation lands shall be exempt from taxation from the time of their acquisition: (See p. 10) in all cases where lands have been purchased, or may hereafter be purchased, by said board for forest reservations, where there are public roads, regularly established, running into or through **Maintain roads.** said lands, said board, under such rules and regulations as the said board is hereby authorized to make, may expend such sum per mile in each year as said board shall deem wise for the maintenance, repair or extension of any such roads; all expenses that may be thus incurred shall be subject to the approval of the board and of the Governor of the State, and shall be paid in the same manner as other expenses are provided for in this act. (P. L. 1905, p. 80.)

Sec. 7. No title or interest in any of said lands held by said board as aforesaid shall be subject to be taken by any body corporate, whether **Right of eminent domain.** municipal or private corporation, or any person whatsoever possessing the power of eminent domain, by condemnation proceedings, in the exercise of said power of eminent domain against the said board or the State of New Jersey, as respects all lands or interests therein included in said reservations. (P. L. 1905, p. 80.)

Sec. 8. (*As amended March 27, 1906, Ch. 46.*) Whenever the board shall deem it expedient and proper to purchase lands for a **Action to establish a forest reservation.** forest reservation in any part of this

State, the board shall, by resolution, fix the price to be paid for said lands, and shall instruct the executive officer to enter into a contract, in the name of the State of New Jersey, with the owner or owners thereof for the purchase of the same; which contract

Contract. shall contain a covenant on the part of the owner or owners that they have a good title in fee simple to the lands proposed to be conveyed, and that said lands, when so conveyed, will be conveyed free and clear of all taxes, liens or encumbrances of any kind or character whatsoever. After the entry into said contract by said executive officer, it shall be his duty to prepare an accurate map of said lands to be filed in the office of the said board.

Map.

The said board shall have power to order and pay for all searches as they shall be advised by

Searches. the Attorney-General to be necessary; and when the Attorney-General shall have advised said board, in writing, that the title to the property proposed to be purchased is clear, and that there are no taxes, liens or other encumbrances against the same, said board is hereby authorized to accept a conveyance of said lands, and to pay the price so fixed as aforesaid for the same. (P. L. 1906, p. 70.)

Sec. 9. (*As amended Feb. 25, 1913, Ch. 23.*) The chief forester employed by said board shall

State Forester. be designated and known as State Forester. He shall be the active agent of said board in the performance of the duties imposed upon it by section three of the act which this act amends. He shall serve also as secretary to the said board. As secretary, it shall be his duty to keep proper records of said board, and any copy of any record, under the seal of the board, signed by the secretary,

Secretary. shall be of the same evidential effect in all the courts of this State as an exemplified copy of any recorded deed, according to law as now constituted. (P. L. 1913, p. 37.)

Sec. 10. The governor shall be ex-officio president of the board, and the state geologist shall be executive officer thereof; the three appointed members of the board shall serve

Officers of board.

without compensation, the expenses of the members of said board incurred in the business of the board shall be payable out of the treasury of the state on the certificate of any member certifying to the comptroller what expenses have been incurred; *provided*, the same is attested by the secretary. (P. L. 1905, p. 81.)

Sec. 11. The purchase money for lands acquired, and all expenses incurred in said purchase, and all expenses incurred in connection **Expenses.** with the management and holding of the state forestry reservations, shall be paid by the state treasurer from moneys in the state treasury not otherwise appropriated, on warrant of the comptroller upon vouchers certified by the secretary, duly approved by resolution of the board; *provided, however*, such sums shall not exceed the amount annually appropriated therefor by the legislature; all moneys received by said board from sources other than by legislative appropriations shall be paid into the state treasury. (P. L. 1905, p. 81.)

Sec. 12. Said board shall have an official seal, which seal shall bear inscribed on it "board of state forest reservation commissioners of **Seal.** the state of New Jersey," with some proper emblem therein, to be adopted by said board. (P. L. 1905, p. 82.)

SUPPLEMENTARY ACTS.

Chapter 25, 1906. Approved March 24, 1906.

Sec. 1. (*As amended March 14, 1911, Ch. 19.*) The State Board of Forest Park Reservation Commissioners shall have power to **Power to con-** enter into contracts with the governing **tract with mu-** body of any city, town or other municipi- **nicipalities, etc.** pality, or with any municipal board or commission owning, holding or having control of any lands suitable for forest growth, or with any individual personal or bodies corporate owning lands suitable for forests, for the control and management of such lands for forestry pur-

Shade Trees. poses, for the establishment of an arboretum, for experiments in forest culture, or for the planting and care of shade trees. (P. L. 1911, p. 31.)

Chapter 143, 1907. Approved May 8, 1907.

(2 *Comp. Stat. p. 2608.*)

Power to acquire fresh-water lakes and rights thereto. Sec. 1. (*See also p. 11.*) The State Board of Forest Park Reservation Commissioners shall have power to acquire, in the manner prescribed in the act to which this act is a supplement, any land covered by a fresh-water lake or pond, or part thereof, within this State, and any land surrounding or adjacent thereto and all rights, private ways, easements or servitudes held, exercised or used by any person or corporation in, upon or over the said land or any part thereof, as said board in its discretion may deem best. Said property, when acquired, shall be held by said board as a part of the forest park reservations of the State. (P. L. 1907, p. 379.)

Rules and regulations for all reserves made and posted. Sec. 2. The board shall have power to make rules and regulations for the government and use of all forest park reservations, which rules and regulations shall be plainly printed and posted within all such reservations, and any person violating any rule or regulation of said board, so as aforesaid printed and posted, shall be liable to a penalty of ten dollars, to be recovered in an action of debt at the

Penalty. suit of said board before a Small Cause Court or a District Court. All penalties recovered as aforesaid shall be paid to the executive officer of said board and by him paid to the State Treasurer. (P. L. 1907, p. 379.)

Chapter 214, 1908. Approved April 13, 1908.

(2 *Comp. Stat. p. 2609.*)

Payment to township in lieu of taxes. Sec. 1. There shall be paid annually to the treasurer of each township or other municipality in which lands are held as State forest reserves, under the act to which this act is a supplement, the sum of two cents per acre for each

acre of such reserves in said township or other municipality. Said payment shall be made on the order of the State Board of Forest Park Reservation Commissioners from the appropriation made for the maintenance of State forest reserves. (P. L. 1908, p. 427.)

Chapter 329, 1912. Approved April 1, 1912.

An Act to create adjunct State forest reserves by acquiring rights of public use in fresh water lakes and ponds and exempting the same from taxation.

Sec. 1. Any owner or owners of a fresh-water lake or pond which is subject to acquisition by the State, as provided by "A further supplement to an act entitled 'An act for the establishment of **Public use of private lakes.** forest park reservations by and in the State of New Jersey, and for the appointment of a State Board of Forest Park Reservation Commissioners, and defining its powers and duties'; approved March twenty-second, one thousand nine hundred and five," the same having been approved May eighth, one thousand nine hundred and seven, may propose an agreement with the Forest Park Reservation Commission by which he or they shall retain title to the property, but grant to the citizens of the State access to and the free use of the waters of such lake or pond for boating and fishing; *provided*, that a reasonable charge may be made for the use of boats belonging **May charge for boats.** to the owner or owners of the said lake or pond. If, after making an investigation, the State Board of Forest Park Reservation Commissioners shall be satisfied that the public interest will be as well served by the freedom to use the lake or pond for boating and fishing, as it would be if the property were conveyed to the State, the said Board of Forest Park Reservation Commissioners shall enter into an agreement with the owner or owners of said pond or lake, **Land under water exempt from tax.** which agreement shall provide that in consideration of the free use by the public of the waters of said lake or pond for boating and fishing, the property shall be exempt from taxation so long as the agreement remains in force, the same as it would be if the State acquired title thereto. (P. L. 1912, p. 576.)

Sec. 2. As a preliminary to the agreement provided for in section one of this act, the Forest Park Reservation Commission shall require that the waters of said lake or pond be actually made free to all citizens for a period of at least six months and notices thereof conspicuously posted on the shores of the

**Evidence of
free use.**

said lake or pond. It shall also require a covenant that the lake or pond will not be closed to the public without notice given to the Forest Park Reservation Commission and by signs posted at least six months in advance of such intended closing. When the Forest Park Reservation Commission shall be satisfied that the waters of the said lake or pond are actually free for the use of the public, subject to the provision made in section one of this act, it shall certify to the assessor of the township or other municipality in which the said lake or pond is taxable, that by virtue of the agreement made between the owner and the Forest Park Reservation Commission, the property has become an adjunct State forest reserve and by the provisions of this act is exempt from taxation. (P. L. 1912, p. 577.)

Sec. 3. The Forest Park Reservation Commission shall have power to make reasonable and proper regulations for the use of adjunct forest reserves hereby created, and shall exercise the same powers over them as it now does over the State forest reserves established by law. (P. L. 1912, p. 577.)

Sec. 4. Nothing in this act shall warrant the owner or owners of a pond or lake used solely or chiefly as a source of water-power for a mill or factory in active operation to apply for exemption of taxes. (P. L. 1912, p. 578.)

**Water-power
excepted.**

Chapter 382, 1915. Approved April 21, 1915.

An Act to authorize any county or any municipality in the State to appropriate money to be expended by the State Board of Forest Park Reservation Commissioners for the maintenance and improvement of a State forest reserve or any part thereof.

Sec. 1. It shall be lawful for the governing body of any county, or of any municipality, to enter into an

agreement with the State Board of Forest Park Reservation Commissioners for the maintenance of a forest reserve, or any portion thereof, which portion may be a pond or lake, as a public park; and from ~~Forest reserve~~ ^{as} ~~time to time to appropriate money and to~~ ^{public park.} pay the same to the State Board of Forest Park Reservation Commissioners to be expended by said board for the maintenance and improvement of such State property. (P. L. 1915, p. 714.)

MUNICIPAL FORESTRY.

An Act to authorize any municipality of this State to use lands for forestry purposes, to cut and sell timber therefrom and to determine the character of such use. Approved April 20, 1906 (Ch. 136).

(2 *Comp. Stat.*, p. 2609.)

Sec. 1. The governing body of any municipality of this State shall have power to use any lands of such municipality for forest ~~growth~~, and shall have the power to cut ^{Municipal forestry.} and sell any timber found or grown upon such land; and shall have the further power to enter into contracts with the State Board of Forest Park Reservation Commissioners for the control and management of lands of such municipality for forestry purposes. (P. L. 1906, p. 261.)

Sec. 2. Any and all lands of any municipality used in accordance with the provisions of this act shall be deemed to be used for pub- ^{Public land.} lic purposes and devoted to public uses. (P. L. 1906, p. 261.)

ARBOR DAY.

An Act relating to Arbor Day.

Approved April 13, 1908 (Ch. 187).

(1 *Comp. Stat.*, p. 109.)

Sec. 1. (As amended March 21, 1912, Ch. 120.)
For the purpose of encouraging the planting of shade and forest trees, the second Friday of
Date. April, in each year, is hereby designated as a day for the general observance of such purpose, and to be known as Arbor Day. (P. L. 1912, p. 169.)

Sec. 2. On said day appropriate exercises shall be introduced in all the schools of the State,
School exercises. and it shall be the duty of the several county and city superintendents to prepare a program of exercises for that day in all the schools under their respective jurisdiction. (P. L. 1908, p. 378.)

ABUSE OF WOODLANDS.**Laws Bearing Upon the Abuse of Woodlands.**

Note: Action under these laws must be taken by the injured party; the Forest Commission has no jurisdiction.

An Act to prevent the unlawful waste and destruction of timber in this State. Passed February 20, 1820.
Revision of 1877, p. 1187. (4 *Comp. Stat.*, p. 5396.)

Sec. 1. That if any person or persons whatsoever, shall, at any time hereafter, cut, fell, work up, carry away, box, bore, or destroy any tree, sapling or pole, standing or lying on any land within this State, to which such person or persons hath not or have not any right and title, without leave first had and obtained of the owner or owners of the said land for that purpose, every such person or persons so offending, shall forfeit and pay for each tree, sapling, or pole so cut felled, worked up, carried away, boxed, bored, or destroyed as afore-

**Penalty in civil
suit for cutting
or felling trees.**

said, the sum of eight dollars; one-half to the owner or owners of the land, and the other half to the person or persons who shall sue for and prosecute the same to effect, at any time within eighteen months from the cutting, felling, working up, carrying away, boxing, boring, or destroying of any such tree, sapling or pole; and that whenever any person or persons, within this State, shall be sued or prosecuted before any justice of the peace within the same, it shall and may be lawful for such justice of the peace to proceed, whenever the penalty demanded shall not exceed one hundred dollars, notwithstanding any claim the defendant or defendants may offer to make to the land whereon and from which the said tree, sapling, or pole may be cut, felled, worked up, boxed, bored, destroyed, or carried away, and to issue execution for the same, with costs of suit, unless the defendant or defendants shall immediately enter into bond to the plaintiff or plaintiffs, with one or more sufficient sureties or surety, being freeholders, in double the sum so demanded, with a sufficiency for costs of suit, conditioned for his or their appearance at the next court where the same may be cognizable, in an action of trespass, and to pay damages found against him, her or them, with costs of suit, any law, usage, or custom to the contrary notwithstanding.

An Act for the punishment of crimes (Revision of 1898). Approved June 14, 1898 (Ch. 235).
(2 *Comp. Stat.*, p. 1788.)

"Sec. 138. Any person who shall unlawfully cut, fell, work up, carry away, box, bore, bark or destroy any tree, sapling, log or pole, standing or lying on any land, to which such person hath not legal right or title, without leave first had or obtained of the owner or owners of the said land for that purpose, shall be guilty of a misdemeanor; *provided*, **Unlawful to destroy trees.** this section shall not apply to any person who shall do the same by mistake or accident, or without any intention to injure or defraud the owner thereof." (P. L. 1898, p. 832.)

SHADE TREES.

An Act providing for the regulating, planting, care, and control of shade trees and shrubbery upon the public highways and in municipal parks, and for the care, control and improvement of such parks; authorizing the continuance of existing shade tree commissions, and the appointment of shade tree commissions, and prescribing their powers and duties (Revision of 1915). Approved April 14, 1915 (Ch. 325).

1. In every city, town, township, borough, or other municipality of this State, except counties, it shall be lawful for the body having charge of the finances of such municipality, and in the case of a municipality governed by commissioners, then for the commissioners of such municipality, to ordain that the regulation, planting, care, and control of shade and ornamental trees and shrubbery upon or in the highways, parks, or parkways of such municipality, except county parks and parkways, shall be exercised by, and be under the authority of a commission consisting of three residents of such municipality, which commission shall be known as the "Shade Tree Commission of.....," the members of which commission shall be appointed by the chief executive of such municipality within sixty days after such ordinance shall have become a law, and shall serve without compensation, except as provided in section four of this act. (P. L. 1915, p. 588.)

2. If, in any such municipality, there is in existence a park commission or a parkway commission, except a county park or parkway commission as distinguished from a shade tree commission, such existing park or parkway commission shall, upon such ordinance becoming a law, exercise the powers hereby granted to, and discharge the duties imposed upon, a shade tree commission, but shall receive no additional compensation by reason thereof. (P. L. 1915, p. 589.)

**Shade tree
commission.**

**If park commis-
sion, duties per-
formed by it.**

3. In all municipalities not coming within the provisions of section two of this act, the terms of office of the commissioners first appointed in any municipality shall begin upon the day of their appointment, and continue for the respective periods of three, four and five years, from the first day of January next succeeding such appointment, the terms of the said appointees to be designated in their respective appointments. All other appointments except to fill vacancies shall be made to take effect upon the first day of January of each year, for a full term of five years. Any vacancy occurring in the membership of any commission, by reason of the death, resignation, or removal of any commissioner, shall be filled, for the unexpired term, by the authority making the original appointment. (P. L. 1915, p. 589.)

Terms of commissioners.

Vacancies.

4. In all municipalities, other than those referred to in section two hereof, a shade tree commission shall organize within thirty days after the appointment of its total membership, for the remainder of the then current year, and thereafter annually, by the election of one of its members as president, and the appointment of a secretary, who need not be a member of the commission. The compensation of the secretary and of all other employees, shall be fixed by the commission. (P. L. 1915, p. 589.)

Organization.

Compensation of employees.

5. A shade tree commission under this act shall have power: (a) To exercise full, sole, and exclusive control over the regulation, planting and care of shade and ornamental trees and shrubbery now situate, or which may hereafter be planted in or upon any public highway, park, or parkway, except county parks or parkways, of the municipality for which it is created, including the planting, trimming, spraying, care, and protection of the same for the public good; the right to regulate and control the use of the ground surrounding the same, so far as may be necessary for their proper growth, care, and protection; the right to remove, or require the removal of, any tree, or part thereof, dangerous to public safety,

Powers of commission.

at the expense of the owner of such tree; and the right to care for and control such parks and parkways: (b) To encourage arboriculture: (c) To make, alter, amend, and repeal, in the manner prescribed for the passage, alteration, amendment, and repeal of ordinances by the legislative body of the said municipality, any and all rules and regulations necessary or proper for carrying out the provisions of this act, and such shade tree commission may enter into a contract with the owner of any real estate in said city to supply material and labor for the purpose of planting trees, grass, flowers or shrubbery, and to charge the actual cost thereof to such owner; after such material or labor is supplied, the said commission shall certify the actual cost thereof to the collector of taxes and the sum so certified shall be collected by said collector as other taxes on real property are collected in such municipality. (P. L. 1915, p. 589.)

6. A copy of any rule, rules, regulation, or regulations of any shade tree commission, certified to under the hand of the president or secretary of the said commission, shall be taken in any court of this State as full and legal prima facie proof of the due passage and existence of such rule, rules, regulation, or regulations. A violation of any such rule or regulation shall be a misdemeanor and shall be punishable by a fine, not exceeding two hundred and fifty dollars, or imprisonment for a term, not exceeding ninety days, or both. (P. L. 1915, p. 590.)

7. All moneys collected in any municipality, either as fines or penalties, for any violation of a rule or regulation of a shade tree commission, or as a charge against real property, under any provision of this act, shall be forthwith paid over to the municipal officer empowered to be custodian of the funds of such municipality; shall be placed to the credit of the shade tree commission of such municipality, and shall be subject to be drawn upon by such commission for the conduct of its work. (P. L. 1915, p. 590.)

8. Except as hereinafter provided, the initial cost of

all trees planted by the commission, the cost of planting the same, the cost of the posts and boxes or guards used for the protection of the same, and the cost of the removal of any tree dangerous to public safety shall be a charge upon the real property in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost, unless paid directly to the shade tree commission, shall be certified by the commission to the collector of taxes of the municipality, shall thereupon become and be a lien upon said property, shall be included in the next tax bill rendered to the owner or owners thereof, and shall be collected in the same manner as other taxes against said property.

Cost of trees, etc., a charge on property.

Cost a lien.

The provisions of this section shall not apply to:

(a) A planting to replace a tree or trees theretofore planted by the commission.

Exceptions.

(b) A planting in connection with Arbor

Day exercises or other educational demonstration.

(P. L. 1915, p. 591.)

9. Except as herein provided, in all cases where the property of an abutting owner would be chargeable under the provisions of this act with any part of the cost of the planting or removal of any shade tree, in any highway, the shade tree commission shall give notice of the meeting at which it will decide upon such planting or removal, requesting all persons who may object thereto to present their objections in writing at the office of the shade tree commission in such municipality at or before the said meeting, and at said meeting shall consider all objections which may have been so filed. Said notice of intention shall specify the street, or streets, or portions of streets, in which it is proposed to do such planting or removal, and shall be advertised at least once in a newspaper circulating in said municipality, at least twenty days before the said meeting, or it may be served personally at least ten days before said meeting upon any owner of real property in front of whose property it is proposed to plant or remove a tree or trees. The provisions of this

Notice of planting or removal.

Notice to hear objections.

Specifications set forth in notice.

section shall not apply to the following:
When act does not apply. (a) A planting at the request of an abutting owner, who shall agree in advance to pay the cost thereof. (b) The removal of a tree considered by the commission dangerous to public safety. Such notice of such proposed removal as the commission may deem practicable shall be given to the abutting owner unless, in the opinion of the commission, immediate removal be necessary for public safety. (P. L. 1915, p. 591.)

10. Each year, at least thirty days before the date fixed by law for the certification by the clerk or other officer of the taxing district to the assessor thereof of the amount of tax to be raised for the purposes of said district, every shade tree commission shall certify to the body having control of the finances of its municipality the estimated sum, over and above any balance remaining in its hands or standing to its credit, necessary for the proper conduct of its work during the ensuing fiscal year. If the amount certified by the

Money to be provided. commission does not exceed one-tenth of one mill on the dollar of assessed valuation of all taxable property of the municipality, the said body shall include and cause the same to be certified to the assessor as part of the amount to be raised by taxes for the purposes of said municipality. If the said estimated sum exceeds one-tenth of one mill on the dollar of assessed valuation, the said body shall include and cause to be so certified such part of said estimated sum not less than one-tenth of one mill on the dollar of said

Sum placed to credit of commission. assessed valuation as it may deem proper. All sums so certified by any governing body shall be, in regular course, appropriated for, placed to the credit of, and be subject to be drawn upon by the said shade tree commission for the purposes of its work. (P. L. 1915, p. 592.)

11. No statute giving any individual or State or municipal board, body or official power or authority to lay any sidewalk along, or to open, construct, curb or pave any street, or do any like act, shall be held

Street improvements not to injure trees.

or construed to permit or authorize any interference with or injury to a highway shade tree without the consent of the shade tree commission within whose jurisdiction such tree shall be located; *provided*, that in all cases such commission shall reasonably co-operate with such individual, board, body or official for the general public good; *and provided*, *further*, that nothing herein contained shall be held to take away or diminish any of the powers or authority of any county park commission over the trees or shrubbery in any county park or parkway within its jurisdiction, or to give any other commission or board any power or authority with respect to such trees or shrubbery. (P. L. 1915, p. 592.)

Shade tree commission must co-operate.

Powers of county park commission not affected.

12. Nothing herein contained shall operate to terminate the existence of any existing shade tree commission in any municipality, or the term of office of any member thereof, and every such existing commission shall, immediately upon this act taking effect, be deemed to exist by virtue of this act; *provided*, that upon the expiration of the terms of such commissioners their successors shall be appointed so as to constitute a commission of three members under this act. Such existing commission shall exercise all of the duties and have all of the powers of a commission appointed and organized hereunder, shall be subject to all of the provisions hereof, and all the rules and regulations of such existing shade tree commission, not inconsistent herewith, shall be in full force and effect as if made under the provisions of this act.

Existing commissions continued.

Duties and powers.

All funds collected or assessed, or in progress of collection, by any existing park or shade tree commission, except a county commission, for shade tree purposes, and all contracts made by, or obligations due to any existing shade tree commission, are hereby continued and transferred to a commission of the same municipality when appointed and organized under this act, and shall not lapse or be prejudiced hereby.

Funds, works, etc., transferred and continued.

Employees continued. All employees of any existing shade tree commission shall be continued and transferred to a commission of the same municipality when appointed and organized under the provisions of this act, and the status and tenure of employment of such employees shall not lapse or be prejudiced or affected by reason of such substitution of a commission appointed and organized hereunder in the place and stead of a commission formerly existing. (P. L. 1915, p. 593.)

Tenure not affected.

13. All provisions of this act, with respect to a shade tree commission, shall be deemed and taken as applicable to a park or parkway commission, exercising the powers and discharging the duties of a shade tree commission under the provisions of section two of this act. (P. L. 1915, p. 594.)

Act applicable to park commissions.

14. Nothing in this act contained shall be construed to make any shade tree commission responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub. (P. L. 1915, p. 594.)

No liability for death or injury.

15. If any clause, sentence, paragraph, part, or provision of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, part, or provision directly involved in the controversy in which such judgment shall have been rendered. (P. L. 1915, p. 594.)

As to constitutionality of act.

Law Prohibiting Hitching Horses to Shade Trees.

From An Act providing for the regulation of vehicles, animals and pedestrians on all public roads, etc.
Approved April 6, 1915. (Ch. 156.)

Sec. 11. (18) No horse shall be hitched or fastened to any pole carrying wires of any description, nor to any public lamp post or pole, nor to any shade tree or

its protecting box or casing, nor to any water hydrant in any street. (P. L. 1915, p. 295.)

Note: This law applies only in places where the houses are on an average of less than one hundred feet apart. *Penalty;* for a first offense a fine not exceeding \$25, or not over 10 days in jail; for each additional offense a fine not exceeding \$50. or not over 20 days in jail. (P. L. 1915, p. 304.)

SHADE TREES ON PUBLIC ROADS.

From An Act to provide for the permanent improvement and maintenance of public roads in this State. (Revision of 1912.) Approved April 15, 1912. (Ch. 395.)

Section 4, paragraph 1. (*As amended April 9, 1913. (Ch. 317.)*) The road improvement contemplated under this act shall include the construction of the road and its intersections with other public roads, the restoration or construction, as herein provided of proper and adequate entrances to properties, the building of any essential walls in cuts or for slopes, and of all necessary facilities for drainage in improvement aforesaid, also the planting of shade trees, such works as may be necessary to preserve existing shade trees. (P. L. 1913, p. 643.)

**May plant and
preserve shade
trees.**

Sec. 29. (*As amended April 9, 1913, (Ch. 317.)*) When a road plan involving the treatment of trees or forests abutting upon any road improved under an act bearing a title similar to this act or under this act is to be made, the State Commissioner of Public Roads shall notify the State Board of Forest Park Reservation Commissioners, which shall cause to be prepared such plans and specifications as shall be necessary for the completion of said treatment, the cost of which shall be taken as part of the cost of the road. In all that relates to the choice, planting or care of trees, the decision of the Forest Park Reservation Com-

**Co-operation be-
tween Road Com-
missioner and
Forest Commis-
sion.**

mission shall be final. In all that affects the location of trees, or the influence upon the road, the decision of the State Commissioner of Public Roads shall be final. If the State Commissioner of Public Roads and a local

In case of dispute. governing body having authority in respect to roadside trees shall be unable to agree regarding the removal or treatment of any tree standing within the line of any road to be improved, according to this act, the two interests shall submit the case to the Forest Park Reservation Commission, and its decision shall be final and binding upon all parties. (P. L. 1913, p. 648.)

FOREST FIRE LAWS.

General Forest Fire Act

An Act for the appointment of firewardens, the prevention of forest fires and the repeal of sundry acts relating thereto. Approved April 18, 1906. (Ch. 123.)

(2 *Comp. Stat.*, pp. 2332-2339)

Sec. 1. (*As amended March 15, 1911. Ch. 36.*)

State and division firewardens. The State Forest Park Reservation Commission shall have power to appoint a State firewarden, and not more than six division firewardens, and to fix their salaries. Each shall give his whole time to the forest fire service and shall hold office during the pleasure of the commission.

Ex-officio firewardens. Members of said commission and such of its officers as it may designate shall be ex-officio firewardens, but shall receive no compensation in virtue thereof. (P. L. 1911, p. 52.)

Sec. 2. (*As amended April 13, 1908. Ch. 213.*) The township committee (see p. 37), or governing body of every township in this State shall, within thirty days after receiving notice in writing from the State Board of Forest Park Reservation Commissioners, appoint some suitable person to act as township firewarden for the entire township, or such part thereof as said commission shall determine, for a term of one year and until his successor shall have been appointed, and on failure so to do, the State Board of Forest Park Reservation Commissioners shall make such appointment. Such appointment, when accepted, shall be promptly certified to the State Firewarden. The person so appointed may be summarily removed by said commission. If any person so appointed is so removed, said commission shall promptly notify the governing body making such appointment, and said governing body shall, at its next meeting, fill the vacancy for the unexpired term; *provided*, no person so removed by said commission shall be eligible for reappointment within one year from the date of said removal. When required by the State Firewarden, the township firewarden shall establish two or more districts for the township for which he is appointed, and shall appoint suitable persons as district firewardens; *provided, however*, no district firewarden shall be appointed for the district in which the township firewarden lives. Any township firewarden shall have power to designate one or more proper persons to act as deputy or deputies in case of his absence or disability from any cause. He shall file with the State Firewarden, and with the township committee, the names and addresses of all district firewardens and deputies appointed by him, and shall specify the districts to which they are assigned. (P. L. 1908, p. 422.)

Township firewardens.

Removal.

No reappointment.

District firewardens.

Township and district warden shall not serve same territory.

Deputy firewardens.

Sec. 3. (*As amended March 15, 1911. Ch. 36.*) The State Firewarden and division firewardens shall have all the powers herein granted to the township firewardens. Under the direction of said commission

Powers and duties of State and division firewardens.

the State Firewarden shall administer the forest fire service. Division firewardens shall perform such service and have such authority as shall be determined by the State Firewarden. (P. L. 1911, p. 52.)

Sec. 4. (*As amended March 15, 1911. Ch. 36.*)

Powers and duties of township and district firewardens. Township and district firewardens shall enforce all statutes of this State now in force, or that may hereinafter be enacted for the protection of forest and timber land from fire, and shall carry out the directions of the State Firewarden or division firewardens regarding the prevention and extinguishing of forest fires. They shall have control and direction of all persons and apparatus engaged in extinguishing forest fires. They may plow land, or, in an emergency, set back fires to check any fire.

May summon assistance. They may summon any male person between the ages of eighteen years and fifty years who may live or be within the jurisdiction of such firewardens to assist in extinguishing fires, and may also require the use of horses and other property needed for such purpose. Any person so summoned who is physically able, who refuses or neglects to assist, or to allow the use of horses, wagons or other material

Penalty. required, shall be liable to a penalty of ten dollars. If, in the judgment of a firewarden, a forest fire in an adjoining township shall imperil the safety of any property in his own township, he may, with assistants summoned as aforesaid, take such measures to extinguish the fire, or to prevent its spread, as he would take were it in his own municipality; *provided*, that if any firewarden of the township in which the fire is located be present at the fire, all work shall be done under his direction. If the State firewarden or any division firewarden be present at any fire he shall ex-officio have complete control. When a serious fire occurs the State firewarden or any division firewarden

Serious fires. may summon to his aid firewardens from surrounding townships with their assistants, and in such case the State shall bear the whole expense of paying the firewardens and assistants who reside in townships which were not threatened. In

every other case in which a fire is fought by men from two or more townships the cost shall be apportioned by the State firewarden among the townships in which the fire burned, or which were directly threatened. If any township shall fail to appoint a firewarden when directed by the Forest Commission to do so, as provided by section two of this act, or shall fail to make an appropriation sufficient to pay its share of the firewarden's salary and bills incurred in fighting fires, assistance may be summoned by any firewarden as provided in this act, and any person so summoned shall receive for his services only the amount that the State would pay as its share under section six of this act. Bills for this service shall be rendered by the firewarden in charge of the fire directly to the Forest Commission, and shall be paid as are other bills of said commission. No action for trespass shall lie against any person crossing or working upon lands of another to extinguish fire. (P. L. 1911, p. 53.)

Apportionment of cost.

Pay of helpers where township fire service is not maintained.

Sec. 5. The State Board of Forest Park Reservation Commissioners shall have power, from time to time to prescribe such other duties and to make such regulations governing firewardens for the prevention, fighting and extinguishment of forest fires, as in their judgment shall be efficacious for that purpose. They may purchase and distribute to firewardens such material and equipment as they may deem necessary for carrying out the provisions of this act. The State firewarden shall be custodian of and responsible for all such material and equipment, under such rules as said commission may prescribe. (P. L. 1906, p. 223.)

Pay of firewardens.

Sec. 6. (*As amended April 17, 1914. Ch. 247.*) Township and district firewardens and helpers shall be paid at the following rates, unless other rates shall be fixed by the township committee or other governing body, and notice thereof filed with the State Firewarden. Each township firewarden shall be paid at the rate of twenty

Powers of Forest Commission.

dollars a year, and each district firewarden, appointed as provided in Section 2 as amended, at the rate of ten dollars a year. Said sums shall be paid in lieu of all allowances for making reports, for postage, for posting fire-warning notices, and for issuing permits. For special services in investigating fires and the causes thereof, or for any service required by the State Firewarden, and for all time in fire fighting, firewardens and their helpers shall be paid at the following rates:

Firewardens, while engaged in fighting fires, two dollars for five hours or less, and thirty cents per hour thereafter.

Firewardens, while otherwise employed, twenty-five cents per hour.

Helpers, fighting fire, one dollar for five hours or less, and twenty cents per hour for more than five hours.

Helpers, on patrol or employed otherwise than fighting fire, twenty cents per hour.

Firewardens shall render to the governing body of the township in which the service was rendered, a statement of the services rendered by them and by the men, teams and other apparatus employed by them as provided in this act, within ten days of the date of such service, which said bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and all disbursements made by said firewarden. When properly verified, said bill shall be paid in such manner, and by such official, as other bills of said township are paid. A certified copy of each bill paid in accordance with this section, with evidence of payment, shall be made on a blank provided by the Forest Commission, and filed with the State Firewarden within ninety days of the date upon which the service was rendered. Failure to do this shall act as a waiver of all claim upon the State for reimbursement as provided in this section or for a share of penalties as provided in section twelve, as amended, of the act which this act amends. Upon the approval of said bill by the State Board of Forest Park Reservation Commissioners, one-half of the amount shall be repaid said township by the State Treasurer upon warrant of the State Comptroller; *provided, however, the State shall pay the entire*

cost of extinguishing fires originating on and restricted to State forest reservations. Such bills shall not be presented to the township committee but certified to the State Firewarden directly; *and provided, further*, that in no case shall the State's share of any bill be based upon a higher rate for services than as fixed above. (P. L. 1914, p. 510.)

Fires on reserves.

Sec. 7. (*As amended April 13, 1908. Ch. 213.*) The firewarden of the township in which a fire occurs shall within ten days make such report thereof to the State Firewarden as may be prescribed by the State Board of Forest Park Reservation Commissioners. Each district warden shall report promptly any fire in his district to the township firewarden. (P. L. 1908, p. 425.)

Reports.

Sec. 8. The town and district firewardens shall post such notices concerning forest fires as the State firewarden may prepare, and any person who shall willfully or maliciously tear down or destroy any such notice, shall be liable to a fine of ten dollars. (P. L. 1906, p. 225.)

Fire notices.

Sec. 9. (*As amended April 17, 1914. Ch. 247.*) In any township or part thereof for which firewardens have been appointed under the provisions of this act, no person shall set fire to or cause to be burned waste, fallows, stumps, logs, brush, dry grass, fallen timber or anything that may cause a forest fire unless the written permission of the State Firewarden, or a division firewarden, or of the township or district firewarden of the township or district in which such fire is set has been first obtained. Such permission shall not be granted by any firewarden if, in his opinion, any forest or woodland will be endangered thereby, nor shall such permission, if granted, relieve or exonerate any person from any penalties under this act, in case, by reason of such fire, any forest, brushland or woodland be burned; *provided, however*, permits shall not be necessary for burning said materials when the fire is set in a public road, garden or plowed field at a distance of not less than two hundred feet from any woodland, brushland, or field containing dry grass or other inflammable material

Permits to burn brush, etc.

Permits not required.

from which fire may be transmitted to any forestland, brushland or wasteland. (P. L. 1914, p. 512.)

Fires must be watched. Sec. 10. All persons who shall burn any pit of charcoal, or set fire to or burn any brush, grass or other material whereby any property may be endangered or destroyed, shall keep and maintain a careful and competent watchman in charge of said pit, brush or other material while burning. (P. L. 1906, p. 225.)

Firing the forest forbidden. Sec. 11. (*As amended March 15, 1911. Ch. 36.*) No person shall set fire to or burn, or cause to be burned, any wasteland, brushland, or forestland, but nothing in this section shall be interpreted to forbid any person from setting a backfire, or ground fire, or a surface fire, upon his own property to protect the same; *provided, however*, if such fire be permitted to escape, or does escape, to adjoining property, then the person setting such fire, or causing it to be set, shall be deemed to have violated the provisions of this section. Any firewarden, however, shall have the power to set, or direct to be set, any backfire. In any township in which a fire service is established any person who shall find a fire burning in the forest, or where forest is endangered, shall immediately extinguish the same, or being unable so to do, shall notify a firewarden. (P. L. 1911, p. 56.)

Backfiring allowed on own property only.

A firewarden may set a back fire.

Forest fires must not be ignored.

Sec. 12. (*As amended March 15, 1911. Ch. 36.*) Every person who shall violate any of the provisions of this act, and every person who shall obstruct or in anywise interfere with any firewarden, his deputies and assistants, in the performance of any duty under this act, shall be liable to a penalty of not less than fifty dollars nor more than two hundred dollars, except as otherwise provided in this act; *provided, however*, that where there are mitigating circumstances the Forest Commission may, in its discretion, permit the person or persons who may have violated the law to pay the cost of extinguishing the fire, or other expense incurred, or

Penalties.

Forest commission may reduce penalty.

such part thereof, or such sum less than the minimum fine herein imposed, at such time and in such manner as said commission shall determine. Such payment when finally made shall relieve the person or persons making it of the penalty for such violation imposed by this act. All payments on account of penalties under this act shall be made to the executive officer of the Forest Commission, who shall promptly disburse the same in such manner as will relieve in equal degree the township, or townships, concerned and the State of the expense incurred. If a penalty paid shall exceed the costs in any case the excess shall be paid to the treasurer of the township in which the fire, or other violation of law, occurred. Any firewarden, or deputy acting in the absence or disability of a firewarden, may arrest, without warrant, any person or persons taken by him in the act of violating any of the provisions of this act, and shall proceed against such person or persons in the manner prescribed by this act. (P. L. 1911, p. 56.)

**Firewardens
may arrest
without war-
rant.**

Sec. 13. (*As amended April 17, 1914. Ch. 247.*) Every district court in any city or judicial district of any county, and every justice of the peace in any city or county, and every police justice or recorder in any city or other municipality, is hereby empowered, on complaint under oath or affirmation made according to law that any person or persons has or have violated any of the provisions of this act, to issue process, in the name of the State Board of Forest Park Reservation Commissioners, as prosecutor, for the use of the State of New Jersey. Said oath or affirmation, if made by a firewarden, or by a member or officer of the said commission, may be upon information or belief. Said process shall be in the nature of either a summons or warrant against the person or persons so charged; when in the nature of a warrant, it shall be returnable forthwith, but before any warrant shall issue out of any district court the judge thereof shall endorse upon the complaint an order in the following or similar words: "Let the warrant issue in this case." To which said judge shall sign his name; and when in the nature of a summons, it

**Magistrate may
issue process.**

Process.

shall be returnable in not less than one or more than ten entire days. Such process shall state what section of the law is alleged to have been violated by the defendant or defendants; and on the return thereof, or at any time to which the trial shall have been adjourned, the said district court, justice of the peace, police justice or recorder shall proceed to hear the testimony,

and to determine and give judgment in the matter, without the filing of any pleadings, either for the prosecutor for the recovery of such penalty with costs, or for the defendant or defendants. If such judgment be for the prosecutor as aforesaid, it shall be in the following or similar form:

Judgment. "State of New Jersey, county of _____, ss: Be it remembered that on this _____ day of _____, in the year of our Lord nineteen hundred _____, at _____, in said county, C. D., defendant, was, by the district court of the city of T. (or by me, E. F., justice of the peace, police justice or recorder of the city of _____, or as the case may be), convicted of violating the _____ section of the Act of the Legislature of New Jersey entitled 'An act for the appointment of firewardens, the prevention of forest fires, and the repeal of sundry acts relating thereto,' approved the _____ day of _____, anno Domini, nineteen hundred _____, in a summary proceeding, at the suit of the State Board of Forest Park Reservation Commissioners, as prosecutor; and further, that the witnesses in said proceeding who testified for the prosecutor were (name them); and the witnesses who testified for the defendant were (name them); wherefore the said court (or justice of the peace, police justice or recorder, as the case may be) doth hereby give judgment that the prosecutor recover of the defendant _____ dollars penalty and _____ dollars costs of this proceeding, and that execution do issue against the goods and chattels of said defendant for the amount of said penalty and costs, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail

Imprisonment. of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence deliv-

ered by due course of law." Said judgment shall be signed by the judge of the district court, justice of the peace, police justice or recorder giving the same. (P. L. 1914, p. 512.)

Sec. 14. If either the prosecutor or the defendant or defendants be dissatisfied with any judgment given under the provisions of the thirteenth section of this act, the dissatisfied party may appeal to the Court of Common Pleas of the county in which the judgment appealed from shall have been rendered, which appeal shall be taken by filing with the court, justice of the peace or recorder who gave the judgment, a notice of such appeal, signed by the appealing party, or his, her or their agent; *provided, however*, that no appeal shall be allowed to or taken by any defendant from

**Appeal to court
of common
pleas.**

any judgment against such defendant unless, with said notice of appeal, such defendant shall also file a bond, with at least one sufficient surety to be approved by the court, justice of the peace, or recorder who shall have given the judgment, in double the amount of the judgment, and conditioned that the appellant or appellants shall appear and prosecute the appeal in said court of common pleas, shall stand to and abide the judgment of said court of common pleas, and shall pay such costs as shall be taxed against the appellant or appellants, if the judgment appealed from be affirmed. The court, justice of the peace or recorder who shall have given the judgment appealed from shall send a transcript of the proceedings and judgment and said notice of appeal, together with any bond that may have been filed under the provisions of this section above contained, to the clerk of the court of common pleas to which the appeal is taken on or before the first day of the term of said court next ensuing such appeal. In any case of appeal by a defendant after execution shall have been issued, the court of common pleas to which the appeal is taken, upon receiving satisfactory proof that the notice of appeal above mentioned has been filed with the court, justice of the peace or recorder who gave the judgment, and upon filing with the clerk of the court of common pleas to which

Proviso.

Bond filed.

**Transcript
sent to court.**

the appeal is taken, such bond as aforesaid, to be approved by said court of common pleas, may stay the execution until the further order of said last-mentioned court, a rule to which effect shall be entered in the minutes of the said last-mentioned court, and a copy thereof, certified by the clerk of said last-mentioned court, shall be served on the constable in whose hands the execution may be. The said court of common pleas shall proceed to hear and determine such appeal in the same way and manner as said case was heard by such district court, justice of the peace, police justice or recorder. (P. L. 1906, p. 227.)

Sec. 15. (*As amended April 17, 1914. Ch. 247.*)
In case judgment as aforesaid shall be rendered against

Execution granted by magistrate.	any defendant, in any such proceedings as aforesaid, execution shall thereupon be granted by the court, justice of the peace, police justice or recorder giving the judgment, commanding the officer to whom the execution is delivered to levy and make the amount of the penalty and costs imposed by the judgment out of the goods and chattels of the defendant, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be discharged by the justice of the peace, district or police magistrate, by whose authority said execution was issued, or by one of the justices of the Supreme Court, when such court, justice of the peace, police magistrate or police court justice, shall be satisfied that further confinement will not result in the payment of the judgment and costs. Any such defendant shall after such discharge, continue liable to the
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Judgment docketed.	payment of said judgment and costs. Any judgment recovered under this act may be docketed in the office of the clerk of the
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Court of Common Pleas of the county, in which such judgment shall have been obtained. Such docketing shall be in the manner provided by an act entitled "An act concerning District Courts" (Revision of 1898), approved June fourteenth, one thousand eight hundred

and ninety-eight, which said judgment, when so docketed as aforesaid, shall have a like effect and may be collected in the same manner as judgments recovered in district courts, docketed by virtue of the provisions of the act above mentioned. The said court, justice of the peace, police justice or recorder is hereby further empowered either before or after the issuance of such execution, to cause any such defendant, who may refuse or neglect to pay the amount of the judgment entered against him, and all of the costs or charges incident thereto, unless an appeal is granted, to be committed to the county jail for any period not exceeding ninety days. (P. L. 1914, p. 514.)

Imprisonment.

Sec. 16. (*As amended April 17, 1914. Ch. 247.*)

The officers to serve and execute any process or execution as aforesaid shall be the sheriff or any constable of the county, and, within the jurisdiction of any district court, shall include the sergeant-at-arms thereof, which service and execution shall in all cases be made in the same manner and under the same liabilities that other processes and executions issued out of the district court of this State are served and executed under and by virtue of the provisions of the act entitled "An act concerning district courts," approved June fourteenth, in the year one thousand eight hundred and ninety-eight, and the acts supplemental thereto and amendatory thereof. The costs taxable and recoverable in any case prosecuted as aforesaid shall be the costs allowed by the act last above mentioned in cases prosecuted in district courts. The penalty recoverable in any such action shall be paid to the prosecutor therein, who shall disburse it as provided in section twelve of this act.

Executions.

The judge of the district court, justice of the peace, police justice or recorder before whom any case is prosecuted under the provision of this act may adjourn the hearing thereof from time to time and, in any case where a warrant shall have been issued, may require the defendant to enter into a bond with sufficient surety to the plaintiff in the penal sum of two hundred dollars, conditioned to appear at the time and place of the hearing or trial, and in default of such bond, may commit the defendant to the common

Disposal of fines.

jail of the county, to be there detained until the hearing or trial of the complaint; and if any defendant shall fail to appear at the time and place to which the hearing or trial shall be so adjourned, the bond shall be delivered to the prosecutor, who may sue thereon, and all moneys recovered in such suit shall be paid by the prosecutor into the State treasury. Any prosecution brought in accordance with the provisions of this act, for violation of any of its provisions, may be brought within two years next after the date of the commission of said violation, and not afterward. In prosecutions under this act no

Prosecutions proceedings shall be invalidated because **within two years** of informality in the complaint or warrant, or because of any defect in said proceedings or in the complaint or warrant or other papers therein, which does not substantially prejudice the rights of the defendant therein. (P. L. 1914, p. 516.)

Sec. 17. * * * All expenses incurred by the State Forest Park Reservation Commission in carrying out the pro-

Payment of visions of this act shall be paid by the **Expenses.** State Treasurer, on warrant of the Comptroller, upon vouchers duly approved by the commission; *provided, however,* such sums shall not exceed the amount annually appropriated therefor by the Legislature. (P. L. 1906, p. 230.)

Sec. 18. Acts and parts of acts repealed.

SUPPLEMENTARY ACTS.

Chapter 9, 1907. Approved March 14, 1907.

(2 *Comp. Stat.*, pp. 2332 and 2338.)

Sec. 1. The State Board of Forest Park Reservation Commissioners may include parts of several townships in a single fire district and appoint a firewarden thereof, and the services of and expenses incurred by said warden shall be paid as provided in the act to which this act is a supplement, jointly by the State and by the township in which they were incurred. If such fire district shall include the right-of-way of any railroad company and the land adjacent thereto, the board may make such ar-

Special fire districts.

rangements with said railroad company regarding compensation and expenses of such firewarden as it may deem best; *provided, however*, in no case shall the State pay a larger proportion of such expense than it would pay if such agreement were not made. (P. L. 1907, p. 21.) **Expense limited**

Sec. 2. Wherever the word "township" is used in the act to which this act is a supplement, the said word shall be taken to mean and include a city, town, borough and village as well as a township. (P. L. 1907, p. 21.) **Township defined.**

Chapter 61, 1915. Approved March 17, 1915.

Sec. 1. The owner of any woodlands, or the lessee thereof, or any contractor or employee deriving authority from the owner of such woodlands, or any person doing public work in or upon such woodlands, who shall permit or suffer the accumulation of brush or tree-tops, or any litter from felled trees, to lie or be upon such woodlands to such an extent or in such manner as to facilitate either the origin or the spread of forest fires, shall be deemed thereby to have created an extraordinary fire hazard, and to have made and maintained a public nuisance. (P. L. 1915, p. 103.) **Allowing accumulation of woods litter a nuisance.**

Sec. 2. On the complaint of a firewarden, or of any citizen, it shall be the duty of the Board of Forest Park Reservation Commissioners to cause an investigation to be made of the alleged nuisance. If, in its judgment, a situation endangering the security of adjacent property, either with reference to the possible origin or spread of forest fires, exists, it shall require the responsible party to remove such menace within a specified time, in manner directed and at his own cost. If such removal be done by burning, all the provisions and requirements of the act to which this act is a supplement shall be observed, but nothing done under this act shall operate as a release of responsibility if fire escapes and damages the property of another. Failure to comply with the **Complaint.** **No release of responsibility.**

requirement of the Board of Forest Park Reservation Commissioners shall subject the offender to the penalty imposed by section twelve of the act to which this act is a supplement, which penalty shall be imposed for every period of five days, or portion of one such period, during which the requirement of the Board of Forest Park Reservation Commissioners shall be unobserved.

All penalties incurred for violation of any of the provisions of this act shall be sued for, recovered and collected in the manner provided for the recovery of penalties by the act to which this act is a supplement.

Recovery and disposition of penalties. Such penalties, when recovered, shall be paid to the executive officer of the Board of Forest Park Reservation Commissioners, who, after deducting any direct expense connected with the recovery of said penalty, shall pay the same over to the State Treasurer. (P. L. 1915, p. 103.)

Chapter 109, 1915. Approved March 30, 1915.

Sec. 1. Whenever the Board of Forest Park Reservation Commissioners shall be satisfied that existing conditions tend to the origin of forest fires in any locality, it shall provide for the maintenance of **Patrolmen to be provided.** patrolmen to watch for and extinguish fire in such places and for so long as such danger exists. (P. L. 1915, p. 168.)

Sec. 2. The said board shall determine whether the existence of such conditions is due to the operation of a railroad, or to the operations, actions, conduct or neglect of any other corporation, firm or individual, and the responsible party, thus determined, shall appoint and pay the wages and expenses of the patrolmen hereinafter required to be appointed and paid. If the said board shall determine the existence of the conditions referred to to be due to a divided agency, the required patrolmen shall be appointed by the State Firewarden, and the wages and expenses shall be apportioned by the said board among the several parties to such divided agency; *provided, however*, that if one of the parties to such divided agency shall be a railroad

company, the patrolmen required of such railroad company shall be appointed and paid according to the provisions of this act applying to the appointment and payment of patrolmen by railroad companies. (P. L. 1915, p. 169.)

Sec. 3. Whenever the Board of Forest Park Reservation Commissioners shall make determination as set forth in paragraphs one and two of this act, the State Firewarden, upon notification by the said board to that effect, shall, in writing, notify the responsible agent or agents of the determination of the said board, specifying the locality affected thereby and included within the terms of his notice, calling for the appointment of such number of patrolmen as the said State Firewarden may deem to be necessary, and prescribing generally the work of such patrol. The State Firewarden shall fix and state, in the said notice, the time when the said notice shall become effective. In case of a railroad company, the said notice shall be served at the office of the superintendent of the division within which the affected district is located. In case of a private individual, firm or corporation, not a railroad company, the notice shall be served upon the owner, lessee, superintendent or agent, wherever found. The order of the State Firewarden may be amended in any particular by the said board, either upon its own initiative or upon the request of any person or corporation affected thereby, but shall not be stayed pending application for such amendment, except upon order of the board. (P. L. 1915, p. 169.)

Proper parties notified.

Service of notice on a railroad.

Order may be amended.

Sec. 4. The person or corporation receiving such notice shall immediately comply therewith and shall at once report to the State Firewarden the names of all patrolmen appointed pursuant to such order, and the names of the persons acting as foremen or superintendents thereof actually upon the work. And such person or corporation shall report to the State Firewarden at such times and in such manner as he shall require, setting forth the number of men performing such duty, the places

Immediate compliance.

Report to State Warden.

where, the times when, and the manner in which the patrol duty is being performed. If the appointment of, or service rendered by, any member of such patrol shall be unsatisfactory to the State Firewarden, such patrolmen shall be immediately replaced by his employer upon the request of the State Firewarden. (P. L. 1915, p. 170.)

Sec. 5. Any firm, person or corporation who shall or which shall fail to comply with the provisions of this act, or with the terms of such notices and orders as may be issued by the State Firewarden, shall be subject to a penalty of ten dollars per day for each patrolman not on duty in accordance with such notice or order.

Penalty. All penalties incurred for violation of any of the provisions of this act shall be sued for, recovered and collected in the manner provided for the recovery of penalties by the act to which this act is a supplement. Such penalties, when recovered, shall be paid to the executive officer of the Board of Forest Park Reservation Commissioners, who, after deducting any direct expense connected with the recovery of said penalty, shall pay the same over to the State Treasurer. (P. L. 1915, p. 170.)

Sec. 6. Compliance with the provisions of this act shall not operate as a bar to any suit for damages for which any person or corporation would otherwise be liable, but conformance with the provisions of this act, and compliance with the terms of any order or notice issued by the State Firewarden may be shown and considered as evidence of the use of due care on the part of such person or corporation. (P. L. 1915, p. 170.)

Suit for damages not barred. Sec. 7. In any case where prompt action is necessary all duties and powers imposed by this supplement upon the Board of Forest Park Reservation Commissioners may be performed and exercised by the executive officer of the said board, the State Forester and the State Firewarden, acting jointly in the name of said board, and the joint determinations, actions and orders of the same shall be as conclusive and effectual as though done and per-

formed by the full board; *provided*, that any action of the said officials may be reviewed and modified by the Forest Park Reservation Commission in the same manner and under the same limitation as is prescribed in section three of this act. (P. L. 1915, p. 171.)

Acts Relating to Forest Fires That are Not Applied by the Forest Commission.

Note—Prosecutions under these acts must be instituted by the prosecutor of the pleas of the county in which the fire was set, at the instance of the party in interest. The Forest Commission has no jurisdiction.

Criminal Liability.

A further supplement to an act entitled "An Act for the punishment of crimes" (Revision of 1898), Approved April 2, 1902. (Ch. 83) (*2 Comp. Stat.*, p. 1792.)

Par. 157a.—Any person who shall wilfully or maliciously set fire to, burn or cause to be burnt, or aid, counsel, procure or consent to the burning of any woods, marshes, cranberry bogs or meadows of any other person or persons, shall be guilty of a misdemeanor. (P. L. 1902, p. 248.)

Fires From Railroads

An Act concerning railroads (Revision of 1903). Approved April 14, 1903. (Ch. 257.) (*3 Conn. Stat.*, p. 4245.)

"Sec. 56. Every company or person operating or using any railroad shall take and use all practicable means to prevent the communication of fire from any engine used by them in passing along or being upon such railroad to the property, of whatever description, of any owner or occupant of any land adjacent or near to said railroad, and shall provide such engine with a screen or cover in the **spark arresters**. smokestack so as to arrest and prevent,

as much as practicable, the escape of fire; any company or person refusing or neglecting to make such provision shall forfeit for every such refusal or neglect one hundred dollars to any person who may sue for the same, to be recovered, with costs, in an action upon contract in any court having cognizance thereof, one-half of the sum to go to the person suing and one-half to the State for the public-school fund." (P. L. 1903, p. 673.)

Penalty.

"Sec. 57. When injury is done to property by fire communicated from an engine of any company or person in violation of the foregoing section, such company or person shall be liable in damages to the person injured; and in every action for an injury done to the property of any

Liability for damages.

person by fire communicated from an engine in violation of the preceding section of this act, proof that the injury was communicated from an engine shall be prima facie evidence of such violation, subject, nevertheless, to be rebutted by evidence of the taking

Rebuttal.

and using all practicable means to prevent such communication of fire as by said section required; it shall be lawful for any railroad company to insure such property exposed to loss by fire communicated from its engines, and such company shall have an

Insurable interest.

insurable interest therein." (P. L. 1903, p. 673.)

"Sec. 58. All actions accruing from injuries to persons caused by the wrongful act, neglect or default of any railroad company owning or operating any railroad within this State, shall be commenced

and sued within two years next after the cause of action accrued, and not after; actions by an executor or administrator

for injuries causing the death of the testator or intestate shall be commenced and sued within one year next after the death, and not after; all actions for injury done to any property by fire communicated by an engine of any railroad company on any railroad within this State shall be commenced and sued within one year after the cause of action accrued, and not after." (P. L. 1903, p. 674.)

Period for bringing suit for damages.

The BOARD OF PUBLIC UTILITY COMMISSIONERS has jurisdiction in respect to railroad exposures as follows:

"An Act concerning public utilities; to create a Board of Public Utility Commissioners and to prescribe its duties and powers." Approved April 21, 1911. (Ch. 195.)

"Sec. 15. The board shall have general supervision and regulation of, jurisdiction and control over, all public utilities, and also **Control over property and equipment.** over their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this act." (P. L. 1911, p. 376.)

"Sec. 16. The board shall have power:

(a) To investigate, upon its own initiative, or upon complaint in writing, any **Power to investigate.** matter concerning any public utility as herein defined."

"(h) To provide for the examination any test of any and all appliances used **Power to test appliances.** for the measuring of any product or service of a public utility as herein defined."

"(i) By its agents, experts or examiners, to enter upon any premises **Power to enter premises.** occupied by any public utility as herein defined for the purpose of making the examinations and tests provided for in this act and to set up and use on such premises any apparatus and appliances necessary therefor." (P. L. 1911, p. 376.)

"Sec. 17. (b) To furnish safe, adequate and proper service and to keep and **Power to maintain equipment in good condition.** maintain its property and equipment in such condition as to enable it to do so." (P. L. 1911, p. 378.)

"Sec. 35. Any person who shall knowingly and wilfully neglect, fail or omit to do or perform, or who shall knowingly and wilfully cause or join or participate with others in causing any public utility corporation or com-

pany to neglect, fail or omit to do or perform, or who shall advise, solicit or persuade, or knowingly and wilfully instruct, direct or order any officer, agent or employe of any public utility corporation or company to neglect, fail or omit to do any act or thing required to be done by this act shall be guilty of a misdemeanor." (P. L. 1911, p. 387.)





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